

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.15687 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	NO
5	Whether it is to be circulated to the civil judge ?	NO

SHASWAT MAHESH GOSWAMI (MINOR) - Petitioner(s)

Versus

DISTRICT EDUCATION OFFICER & 2 - Respondent(s)

Appearance :

MR PRAKASH K JANI for Petitioner(s) : 1,

MS KIRAN PANDEY, AGP for Respondent(s) : 1,

MR RJ OZA for Respondent(s) : 2,

MR RAMESH K SHAH for Respondent(s) : 3,

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 28/06/2007

ORAL JUDGMENT

(1) This petition has been filed praying for following reliefs:

A) That this Honourable Court be pleased to quash and set aside the decision of

respondent No.2-school authority in discontinuing the petitioner's son in 5th Standard and be further pleased to direct respondent No.2-authority to withdraw and take back the school leaving certificate and re-admit the student forthwith;

B) That pending admission, hearing and final disposal of the present petition, this Honourable Court may be pleased to direct respondent No.2 to continue and allow the petitioner's son-Shaswat to study in 5th Standard till further hearing of the writ petition;

C) That this Honourable Court be pleased to award the costs of this Special Civil Application to the petitioner herein;

A n d

D) That this Honourable Court be pleased to pass such other further orders as the nature and circumstances of the case may demand.

(2) Upon issuance of notice respondent No.2-School and respondent No.3 have put in appearance through learned advocates Shri Rashesh J. Oza and Shri Ramesh K. Shah respectively.

- (3) Heard the learned advocate for the petitioner and the respective respondents. Considering the narrow scope of the controversy and the urgency in the matter, the petition is taken up for final hearing and disposal today. RULE. The learned advocates appearing for the respective respondents are directed to waive the service.
- (4) The facts in brief necessary only for the present are that Dr. Mahesh Goswami and Dr. Sunita Goswami are married. Out of the wedlock a child was born named *Shaswat Mahesh Goswami*. The said child is a minor and is in custody of the natural lawful guardian, the father. Husband and wife are admittedly living separately – the father and the boy are residing at Gandhinagar while the mother is residing in a Working Women's Hostel at Ahmedabad. The minor child was studying with respondent No.2-School at Gandhinagar. The grievance of the petitioner is that school

leaving certificate dated 14.06.2007 has been issued by respondent No.2-School, without any default on the part of the petitioner-minor student.

(5) The action of issuance of school leaving certificate has been initiated by respondent No.2-School management in light of the disputes between the parents of the minor child and the school management and its staff being involved by the spouses in their personal disputes.

(6) At the time of hearing the learned advocate for the respondent No.2-School management has fairly submitted that in so far as the petitioner-minor child is concerned, there is no complaint as to the conduct of the student in so far as the school is concerned. However, due to conflicting pressures being imposed by the quarrelling parents, the school management has thought it fit to distance the school by discharging the child as the staff members of

the school are also finding it difficult to discharge their duties.

- (7) The Court had asked the learned advocates to amicably resolve the issue, but, unfortunately, respondent No.3 has not responded positively as submitted by the learned advocate appearing for respondent No.3. In the circumstances, taking into consideration the welfare and the best interest of the child, the following directions are required to be made.

- (8) It is an admitted fact that till this point of time the father is a natural guardian who is entitled to act as such under the law unless and until displaced by an order made by a competent Court. Therefore, the custody of the child being with the father there is no question of the school management taking into consideration the request or directions of any other person, including respondent No.3, to disturb the child.

- (9) Respondent No.2-School is, therefore, directed to cancel the school leaving certificate and take back the petitioner-student as its student and permit the student to continue his studies from the point at which the student was removed from the school.
- (10) Respondent No.2-School is directed to permit the father of the petitioner-student to attend the parents' student meeting which is held periodically by the school and also issue periodical progress report to the father of the petitioner-student. A xerox copy of the progress report can be forwarded by the school management to respondent No.3 i.e. mother of the petitioner-student, at the address which may be furnished by respondent No.3.
- (11) Respondent No.2-school shall permit the father of the petitioner-student to see the principal of the school in connection with any affair of

the minor student, subject to the father of the minor student seeking a prior appointment with the principal of the school.

(12) Neither of the parents will enter the school premises for any other purpose except as directed hereinbefore, nor shall either of the parents contact any person from the school management, the teaching or the non-teaching staff, except as provided hereinbefore.

(13) The aforesaid arrangement shall continue to operate till further orders, if any, by any competent Court replacing the natural guardian of the minor child.

(14) The petition is accordingly disposed of subject to the aforesaid directions. Rule made absolute. There shall be no order as to costs. Direct service permitted.

Sd/-
[D.A. MEHTA, J]

Bhavesb*